

IOWA BOARD OF EDUCATIONAL EXAMINERS

IN THE MATTER OF:

Jodi Barrus,

Respondent.

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Case No. 10-42

License No. 982245

Order Regarding Proposed
Decision Dismissing Complaint

This matter came before the Board of Educational Examiners upon Complaint. An investigation was conducted and the Board found probable cause to move the case forward to hearing.

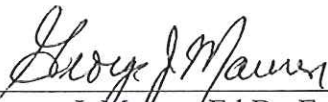
On March 28, 2011, Respondent filed a Motion to Dismiss the Complaint for lack of jurisdiction. On April 12, 2011, Administrative Law Judge Margaret LaMarche issued a proposed decision order dismissing complaint. The proposed decision was served upon the Respondent and the Board.

The Board considered the proposed decision at its regular meeting on May 6, 2011. After examining the proposed decision, the Board unanimously approved a motion not to initiate review of the proposed decision.

ORDER

THEREFORE, the Proposed Decision Dismissing Complaint in this matter will stand as the Board's final ruling in this matter unless a timely appeal from the proposed decision is initiated by one of the parties, pursuant to Board rule 282 I.A.C. 11.28(1).

Dated this 6th day of May, 2011.



George J. Maurer, Ed.D., Executive Director
On behalf of the Board

Copies to:

Christy Hickman, Attorney for Respondent
Julie Bussanmas, Attorney for State

IOWA BOARD OF EDUCATIONAL EXAMINERS

RECEIVED
EXECUTIVE DIRECTOR
BOARD OF EDUCATION EXAMINERS

APR 12 2011

IN THE MATTER OF:) CASE NO. 10-42
JODI BARRUS) DIA NO. 11BEE009
RESPONDENT) PROPOSED DECISION
) ORDER DISMISSING COMPLAINT

On July 13, 2010, the Executive Director of the Iowa Board of Educational Examiners (Board) filed a Complaint against Jodi Lynn Barrus (Respondent) alleging that Respondent was arrested for sexual exploitation by a school employee. On March 8, 2011, the Board found probable cause to file a Notice of Hearing and Statement of Charges, and a hearing was scheduled for May 16, 2011.

On March 28, 2011, Respondent filed a Motion to Dismiss the Complaint for lack of jurisdiction. Respondent asserts that the Board's Executive Director was not authorized by Iowa Code section 272.2(15) or Board rule 282 IAC 11.4 to file the Complaint in this case. The state filed its Response To Respondent's Motion to Dismiss on April 5, 2011.

Iowa Code section 272.2(15) requires the Board to adopt rules that require specificity in written complaints and that: "are filed by individuals who have personal knowledge of an alleged violation" and "provide that the jurisdictional requirements as set by the board in administrative rule are met on the face of the complaint before initiating an investigation of allegations."

282 IAC 11.4(1) specifies when the Board's Executive Director may initiate a complaint. It provides, in relevant part:

11.4(1) *Who may initiate.* The following entities may initiate a complaint:

...

d. The executive director of the board of educational examiners if the following circumstances have been met:

(1) The executive director receives information that a practitioner:

1. Has been convicted of a felony criminal offense, or a misdemeanor criminal offense wherein the victim of the crime was

18 years of age or younger, and the executive director expressly determines within the complaint that the nature of the offense clearly and directly impacts the practitioner's fitness or ability to retain the specific license(s) or authorization(s) which the practitioner holds; or

...; and

(2) The executive director verifies the information or the alleged misconduct through review of official records maintained by the court,...; and

(3) No other complaint has been filed.

According to the Motion to Dismiss, Respondent was acquitted of the criminal charges on July 30, 2010, and there has been no conviction that would authorize the Executive Director to file a complaint against Respondent. In addition, no qualified person with personal knowledge of a violation has filed a Complaint against Respondent. The state asserts that the Board's rule restricting the jurisdiction of its Executive Director to file complaints is troubling and absurd, but concedes that the Executive Director did not have jurisdiction to file a complaint against Respondent once the criminal charges against her were dismissed. Based on review of the cited statute and rules, the Executive Director lacked jurisdiction to file the Complaint when Respondent was not convicted of the criminal charges.

ORDER

IT IS THEREFORE ORDERED that Respondent's Motion to Dismiss the Complaint filed on July 13, 2010 is hereby GRANTED. If this proposed ruling becomes the final order of the Board, the hearing scheduled for May 16, 2011 will be cancelled.

Dated this 12th day of April, 2011.

Margaret LaMarche

Margaret LaMarche
Administrative Law Judge
Iowa Department of Inspections and Appeals
Administrative Hearings Division
Wallace State Office Building-Third Floor
Des Moines, Iowa 50319

cc: Julie Bussanmas, Assistant Attorney General, Hoover Building, 2nd Floor
(CERTIFIED)

Christy A. A. Hickman, Iowa State Education Association, 777 3rd St., Des
Moines, Iowa 50309-1301 (CERTIFIED)

George J. Maurer, Ed.D., Executive Director Iowa Board of Educational
Examiners, Grimes State Office Building (LOCAL)

This proposed decision is subject to appeal and review by the Board, pursuant to
282 IAC 11.27(2) and 11.28.

**BEFORE THE BOARD OF EDUCATIONAL EXAMINERS
OF THE STATE OF IOWA**

In the matter of)	Case No. 10-42
)	License No. 982245
JODI BARRUS,)	
)	NOTICE OF HEARING
Respondent.)	AND STATEMENT OF CHARGES

YOU ARE HEREBY NOTIFIED that the Iowa Board of Educational Examiners, exercising the jurisdiction conferred by Iowa Code chapters 17A and 272, has found probable cause of a violation of Board rules and ordered this matter scheduled for hearing.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing will be held on Monday, May 16, 2011, before Administrative Law Judge Margaret LaMarche, acting on behalf of the Iowa Board of Educational Examiners. The hearing shall begin at 9:00 a.m. in Department of Inspections and Appeals, Wallace State Office Bldg, Third Floor, 502 E. 9th Street (East 9th and Grand Avenue), Des Moines, Iowa. You should report to the third floor Iowa Department of Inspections and Appeals' (DIA) receptionist prior to 9:00 a.m. to obtain the room assignment.

2. Answer. Within twenty (20) days of the date of service of this Notice of Hearing, you are required to file an Answer specifically admitting, denying, or otherwise responding to the allegations included within the Factual Allegations. In that Answer, you should also state whether you will require an adjustment of the date and time of the hearing. A copy of the Answer shall be provided by the Respondent to the Assistant Attorney General identified below.

3. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 282 Iowa Administrative Code [IAC] Chapter 11. At hearing, you may appear personally or be represented by an attorney, at your own expense. You will be allowed the opportunity to respond to the charges against you. Each party will be allowed to testify, examine and cross-examine witnesses, and present documentary evidence. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence. If you need to request an alternative time or date for hearing, you must comply with the requirements of 282 IAC 11.19.

If either party wishes to present telephonic testimony or to participate in the hearing by telephone, arrangements must be made at least ten (10) days in advance of the hearing date by filing a written request with the presiding Administrative Law Judge, Department of Inspections and Appeals, Wallace State Office Building, Des Moines, Iowa 50319, or by faxing a written request to (515) 281-4477. A copy of the request for telephonic testimony must be served on the Board and all parties. Any resistance to the request for telephone testimony must be filed within five (5) days of service of the notice.

4. Pre-hearing conference. Either party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board rules regarding pre-hearing conferences are found in 282 IAC 11.18.

5. Prosecution. The office of the Attorney General is responsible for prosecuting and representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address:

Julie J. Bussanmas
Assistant Attorney General
Iowa Department of Justice
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319
Telephone (515) 281-5637.

6. Communications. You may not contact Board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing or the pending charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve on all parties in the case. You should direct any questions about this proceeding to Dr. George J. Maurer, the Board's Executive Director at (515)281-5849 or to Assistant Attorney General Bussanmas at (515)281-5637.

B. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

7. The Respondent is charged with sexual involvement or indecent contact with a student, in violation of Board rule 282 Iowa Admin. Code 25.3(1)(c).

Count II

8. The Respondent is charged with sexual exploitation of a minor, in violation of Board rule 282 Iowa Admin. Code 25.3(1)(d).

Count III

9. The Respondent is charged with student abuse by soliciting, encouraging, or consummating a romantic or otherwise inappropriate relationship with a student or by committing or soliciting an sexual or otherwise indecent act with a student or any minor, in violation of Board rule 282 Iowa Admin Code 25.3(1)(e) (3) and (4).

C. JURISDICTION AND LEGAL AUTHORITY

10. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A and 272 (2009). If any of the allegations against you are proven at hearing, the Board has authority

to take disciplinary action against you under Iowa Code chapters 17A and 272, and 282 Iowa Admin. Code chapter 11.

D. FACTUAL CIRCUMSTANCES

11. The Respondent holds a Regional Exchange License (FOLDER # 982245) with endorsements to teach 5-12 Art. Respondent also holds a Class B License with endorsements to coach at the K-12 level and to teach 5-12 All Social Studies. Respondent's licenses expired on January 31, 2011.

12. The Respondent began employment with the Belmond-Klemme Community Schools on August 8, 2008, as a junior high social studies teacher, head softball coach, and head volleyball coach.

13. On July 13, 2010, the Board of Educational Examiners received a complaint against Respondent alleging various violations. On November 19, 2010, the Board found probable cause to proceed to hearing based upon the facts set forth herein and delineated in further detail within the complaint and investigation file compiled by the Board.

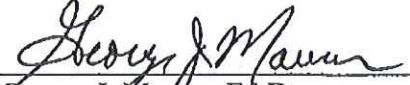
14. It is alleged that Respondent sent numerous inappropriate text messages to a male student including inappropriate topics for a student-teacher relationship.

15. It is alleged that Respondent had sexual contact with the student on multiple occasions.

E. SETTLEMENT

16. This matter may be resolved by surrender of your license or an agreement to accept a lesser sanction. The procedural rules governing the Board's settlement process are found at 282 Iowa Administrative Code 11.4(6). If you are interested in pursuing settlement of this matter, please contact the Assistant Attorney General identified in Section A, above.

Dated this 8th day of March, 2011.


George J. Maurer, Ed.D.
Executive Director
Iowa Board of Educational Examiners

Copies to:

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